



Decision

Matter of: Southern Avionics Company

File: B-258407

Date: January 13, 1995

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Nilza F. Velazquez, Esq., Department of Transportation, for the agency.
Wm. David Hasfurthur, Esq., Susan K. McAuliffe, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. A solicitation's general reference to Federal Acquisition Regulation (FAR) § 52.215-16, which states that award will be made to the offeror whose proposal is most advantageous to the government, cost or price and other factors specified elsewhere in the solicitation considered, does not conflict with the technical evaluation factors provided in section M of the solicitation where that section expressly states that award will be made to the offeror who offers the lowest-priced, technically acceptable proposal. The FAR provision refers to factors specified elsewhere in the solicitation; section M of the solicitation expressly sets forth the evaluation factors and basis for award.
2. Protest that amended closing date for the receipt of proposals did not permit sufficient time for firms to submit proposals is denied where the agency permitted more than the statutorily required 30 days, offers were timely submitted without objection to the closing date by other offerors, and there is no evidence that the agency deliberately attempted to exclude the protester from the procurement.

DECISION

Southern Avionics Company protests request for proposals (RFP) No. DTCG84-94-R-3TM071, issued by the United States Coast Guard for the purchase of high efficiency standard radio beacon antennas. Southern maintains that the RFP's evaluation criteria precluded offerors from competing on an equal basis and that the agency failed to obtain full and open competition when it improperly delayed providing

Southern with a copy of the RFP and then allowed an insufficient amount of time for the preparation and submission of proposals.

We deny the protest.

The RFP was issued on August 10, 1994, after notice of its prospective issuance had been published in the Commerce Business Daily on July 26. The closing date for the submission of offers, originally set for September 9, was extended to September 19 due to Southern's protest to our Office. Offerors were requested to submit unit and total prices for the estimated quantities of high efficiency standard radiobeacon antennas required during a base period and an option year. Section M.2, entitled "Evaluation Criteria for Award," stated that evaluations would be made on the basis of the following criteria:

"(1) Test data and methods used to support testing as described in section L.4.1.1.

"(2) Analysis to include calculations or other analysis data for technical points described in section L.4.1.1.

"(3) Technical approach of use and suitability of applied technologies and equipment.

"(4) Experience and expertise in terms of qualifications and certifications, experience with this specific application, and demonstrated past performance.

"(5) Planning to include proposed schedules and demonstration of flexibility.

"(6) Logistics and support capabilities adequacy."

This section also provided that award would be made to the responsible offeror whose proposal was technically acceptable, conformed to the terms and conditions of the solicitation, and offered the lowest overall price. Section L of the RFP (providing instructions and notices to the offerors) incorporated by reference Federal Acquisition Regulation (FAR) § 52.215-16, which states that award would be made to the offeror "whose offer conforming to the solicitation will be most advantageous to the Government, cost or price and other factors, specified elsewhere in this solicitation, considered." Three proposals had been received as of September 19.

Southern contends that the evaluation criteria do not provide a common basis for evaluating offers. The protester argues that because the RFP gave no indication of the relative importance of each criterion and did not disclose the relative importance of price to these criteria, it permitted more than one way--price could be as important, less important, or more important, than the listed criteria--in which to evaluate offers. Southern states that its view is bolstered by the RFP's reference to FAR § 52.215-16, which states that award would be made on the basis of the most advantageous offer.

We think the RFP was clear regarding the basis for award. Section M.2, which set forth the applicable evaluation criteria for award, stated that award would be made to the lowest-priced responsible offeror whose proposal complied with the RFP specifications. The evaluation criteria set out in this section reflected the six major areas of information (required by RFP section L) to be submitted with an offeror's proposal to establish compliance with the RFP specifications. Proposals were to be evaluated against these criteria to determine whether the offers were acceptable. Nothing in the RFP suggested that proposals would be scored and ranked on the basis of technical superiority. Thus, under the RFP's terms, after the agency determined the technical acceptability of a firm's proposal, the selection for award was to be based on price. See Blane Corp., B-254887, Apr. 24, 1989, 89-1 CPD ¶ 403 and Fischbach and Moore Int'l Corp., B-254225, Dec. 2, 1993, 93-2 CPD ¶ 305.

Contrary to the protester's contention, FAR § 52.215-16, which must be inserted in negotiated procurements, see FAR § 15.407(d)(1), does not provide a different basis for award here. This provision does not state the relationship of price and other factors in the award determination; rather, it refers the offeror to cost or price and other factors "specified elsewhere in this solicitation." Ordinarily, and in this case, section M sets forth the applicable evaluation factors and basis for award. As stated above, section M clearly states that award is to be based on the low technically acceptable proposal.

Southern also argues that the agency failed to obtain full and open competition due to the limited time permitted under the RFP for the preparation and submission of proposals. Southern, despite its requests for the RFP, did not receive a copy of the RFP until August 25--after almost half of the time allowed for proposal preparation had expired. Southern originally requested a 2-week extension of the deadline for the submission of proposals because of the testing required by the RFP; the firm subsequently determined that the

testing would actually require up to 90 days to complete.¹ Southern states that the testing data that must be submitted as part of an offeror's proposal requires the actual construction of an antenna and time-consuming and burdensome tests.

Generally, contracting agencies are required by statute to allow a minimum 30-day response period for receipt of proposals for all but a limited number of procurements. 15 U.S.C. § 637(e)(3)(B)(i) (Supp. V 1993); FAR § 5.203(h); Hudson Defense Sys., Inc.; Research Dev. Labs., B-244522; B-244522.2, Oct. 24, 1991, 91-2 CPD ¶ 368. In this case, the RFP was issued on August 10 and offers were to be submitted by the amended September 19 closing date, more than 30 days later. Southern argues, however, that the response period was inadequate because in order to prepare a proposal, an offeror had to construct and test an antenna to obtain the testing data required by the RFP.

We cannot conclude that the time permitted under the RFP for the preparation and submission of proposals precluded full and open competition. First, the record shows that no other prospective offeror objected to the terms of the RFP and three offerors were able to timely submit proposals by September 19. Second, we have reviewed the RFP requirements and we agree with the agency that the RFP requirements do not require offerors to newly develop an antenna to respond to the RFP; rather, the RFP calls for existing technology. For example, the RFP repeatedly refers to the product as "standard" radiobeacon antennas and, under technical approach, calls for "use of proven technologies and equipment" and "experience with this specific application of the proposed antenna." Under the circumstances, while the protester could have, in its discretion, decided to develop an antenna to try to compete for award under the RFP, we do not think the agency was required to extend the closing date solely to allow the protester time to construct and test an antenna. Finally, there is no evidence that the agency took any action for the purpose of excluding Southern from the

¹We note that Southern was not prejudiced by the fact that it did not receive the RFP (the agency states that it did mail the RFP to Southern after Southern's first request for it) until August 25 since it has stated that it could not have prepared a proposal within the time period permitted for proposal preparation and submission under the RFP, which time period, as discussed below, was unobjectionable.

competition. Accordingly, we deny this basis of Southern's protest. Trilectron Indus., Inc., B-248475, Aug. 27, 1992, 92-2 CPD ¶ 130.

The protest is denied.

\s\ Ronald Berger
for Robert P. Murphy
General Counsel